

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RALPH HARDY, JR.,

Plaintiff,

v.

Civil Action No.
9:08-cv-1352 (GLS/ATB)

PEDRO DIAZ, *et al.*

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

RALPH HARDY, JR.
Plaintiff, *Pro Se*
87 Margaret Drive
Coram, New York 11727

FOR THE DEFENDANTS:

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
The Capitol
Albany, New York 12224

RICHARD LOMBARDO, ESQ.
Assistant Attorney General

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Andrew T. Baxter, duly filed March 30, 2010. Following ten days from the service thereof, the Clerk has sent

the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Andrew T. Baxter filed March 30, 2010 (Dkt. No. 23) is ACCEPTED in its entirety for the reasons state therein, and it is further

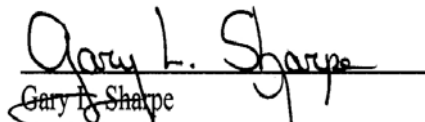
ORDERED, that Defendant Rabinowitz's motion to dismiss the claim against him for deliberate indifference to plaintiff's serious medical needs under the Eighth Amendment is DENIED; and it is further

ORDERED, that defendants' motion to dismiss the complaint with respect to all other defendants and claims (Dkt. No.13) is GRANTED, and the complaint is dismissed as to those defendants and claims without prejudice, and it is further

ORDERED, that the Clerk of the court serve a copy of this order upon the parties in accordance with this court's local rules.

IT IS SO ORDERED.

Dated: April 21, 2010
Albany, New York



Gary L. Sharpe
U.S. District Judge